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6 IN THE UNITED STATES DISTRICT COURT  
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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10 UNITED STATES OF AMERICA,

No. CR 02-00220 WHA

11 Plaintiff,

12 v.

13 STEPHANIE LANDA,

14 Defendant.

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16 **ORDER DENYING MOTION FOR  
17 CONTINUED RELEASE OR BAIL  
18 PENDING APPEAL**

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28 Defendant Stephanie Landa has moved for continued release or bail pending appeal. She is currently pursuing an appeal of this Court's denial of her petition for writ of habeas corpus. The Ninth Circuit has held that "[b]ail pending a decision in a habeas case is reserved for extraordinary cases involving special circumstances or a high probability of success." *Land v. Deeds*, 878 F.2d 318, 318 (9th Cir. 1989). Ms. Landa has demonstrated neither of those factors here.

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38 Ms. Landa has not established any special circumstances. Ms. Landa, who is now sixty years old, is awaiting shoulder surgery. Additionally, her father recently passed away and she is now her mother's sole caretaker. The Court has some sympathy for Ms. Landa. But many defendants who are Ms. Landa's age have health problems and the Bureau of Prisons is obligated to provide adequate health care. Moreover, the incarceration of *any* defendant will undoubtedly affect the lives of that defendant's family members. Ms. Landa has not distinguished herself from other criminal defendants who have served and are serving their

## United States District Court

For the Northern District of California

1 sentences. This order holds that Ms. Landa has not offered facts that rise to the level of "special  
2 circumstances" that would warrant granting her bail pending appeal.

3 Nor has Ms. Landa demonstrated a "high probability of success." By order dated  
4 January 7, 2005, this Court held that, in reaching her plea agreement with the government, Ms.  
5 Landa knowingly and voluntarily waived any and all forms of collateral attack other than those  
6 alleging ineffective assistance of counsel. The claims being pursued by Ms. Landa in the Ninth  
7 Circuit are related thereto in only an attenuated way. To the Court, it seems likely that her  
8 appeal of those issues is barred by her valid plea agreement. Accordingly, this order holds that  
9 Ms. Landa has failed to establish a high probability of success on appeal.

10 For the foregoing reasons, Ms. Landa has not met the high standard for bail pending a  
11 habeas corpus appeal. Accordingly, her motion is **DENIED**. Finding no argument necessary, the  
12 hearing tentatively scheduled for December 15, 2006, is hereby **VACATED**.

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**IT IS SO ORDERED.**

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Dated: December 14, 2006

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

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